

## REMARKS

In response to the Office Action mailed August 7, 2008<sup>1</sup>, Applicant respectfully requests reconsideration. All of the issues raised in the Office Action have been carefully considered and are addressed herein.

Claims 1-18 are pending for examination, with claims 1, 6, and 12 being independent claims. In this paper, claims 1-18 have been amended primarily to address various informalities therein, as well as to more particularly define the subject matter Applicant regards as his invention. No claims have been added or canceled and no new matter has been added. The application as now presented is believed to be in allowable condition.

### I. Rejections under 35 U.S.C. §112

In the Office Action, claims 1-18 were rejected under 35 U.S.C. §112, second paragraph, for failure to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Office Action states, at page 2, that the “recitation of ‘capable of’ renders [claims 1, 2, 6, 8 and 12] indefinite.” Claims 1, 2, 6, 8 and 12, as amended, no longer recite the “capable of” phrase. Accordingly, the rejection of claims 1-18 under 35 U.S.C. §112, second paragraph, has been overcome and should be withdrawn.

### II. Rejections under 35 U.S.C. §102

In the Office Action, claims 1-18 were rejected under 35 U.S.C. §102 as being anticipated by US Pat. No. 6,340,864 to Wacyk (“Wacyk”). Applicant respectfully traverses these rejections, because Wacyk fails to teach each and every element of these claims.

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

Claim 1

Independent claim 1, as amended, recites, *inter alia*:

“a light source for emitting a light to illuminate a local area, the light being modulated based on a code that uniquely identifies the local area; [and]

a wearable occupancy detector for detecting the modulated light and, in response to the modulated light, radiating a signal identifying the local area...” (emphasis added).

Wacyk simply does not teach or suggest either of the elements quoted above, and the Office Action does not allege otherwise. In fact, in support of the rejections based on 35 U.S.C. §102, the Office Action merely indicates, at page 3, that Wacyk’s “sensor (30) communicates with a control unit (22) by transmitting a signal identifying the direction of a localized light source to interface (21).”

The Office Action further states, at page 4, that since Wacyk’s sensor 30 “is made of a small semiconductor sensing device, it is inherently wearable in the same light that it is portable.” But Wacyk does not teach or suggest “a wearable occupancy detector.” MPEP requires that “[i]n relying upon the theory of inherency, the examiner must provide basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” See M.P.E.P. § 2112 (IV). Applicant respectfully points out that no such basis has been provided. A “standalone device”, such as one disclosed in Wacyk, need not necessarily be wearable.

For at least the foregoing reasons, claim 1 is allowable under 35 U.S.C. §102.

Claims 6 and 12

Although of different scope, independent claim 6, similarly to claim 1, recites:

a first light source for emitting a first light to illuminate a first local area, the light being modulated based on a code that uniquely identifies the first local area;

a second light source for emitting a second light to illuminate a second local area, the second light being modulated based on a code that uniquely identifies the second local area;

a wearable occupancy detector for detecting the modulated first or second light and radiating a signal in response to either the modulated first or second light the signal identifying the first or second local area

Although also of different scope, independent claim 12, similarly to claim 1, recites, among other things:

- a plurality of light sources for emitting light to illuminate a plurality of respective local areas, the light from each of the plurality of light sources being modulated in accordance with at least one code of a plurality of codes, wherein each of the plurality of codes uniquely identifies one of the respective local areas; [and]
- a wearable occupancy detector for detecting the modulated light and radiating a signal in response to the modulated light, the radiated signal identifying at least one of the respective local areas; . . . .

Claims 6 and 12 are thus allowable over Wacyk for at least the same reasons as claim 1.

III. Comments on Dependent Claims

Since each of the dependent claims depends from a base claim that is believed to be in condition for allowance, Applicant believes that it is unnecessary at this time to argue the allowability of each of the dependent claims individually. Applicant does not, however, necessarily concur with the interpretation of any dependent claim as set forth in the Office Action, nor does the Applicant concur that the basis for the rejection of any dependent claim is proper. Therefore, Applicant reserves the right to specifically address the patentability of the dependent claims in the future, if deemed necessary.

**CONCLUSION**

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment set forth in the Office Action does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Furthermore, nothing in this paper should be construed as intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify any concession of unpatentability of the claim prior to its amendment.

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' representative at the telephone number indicated below to discuss any outstanding issues relating to the allowability of the application.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, please charge any deficiency to Deposit Account No. 14/1270.

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Respectfully submitted,

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